

REMARKS

Claims 1-10 are pending in the application and claims 11-15 have been withdrawn from consideration. Reexamination and reconsideration of claims 1-10 are respectfully requested. Applicants acknowledge and appreciate the consideration of the previously submitted Information Disclosure Statements. Additionally, Applicants include herewith a petition for an extension of time under 1.136(a).

Claims 1-10 were rejected under 35 U.S.C. sec. 103(a) applying U.S. Pat. No. 4,039,248 (the '248 patent) in view of JP 63-265,209 (the '209 publication). For patents to be applicable under sec. 103(a), the combination of teachings must, *inter alia*, expressly or inherently, teach, disclose, or otherwise suggest each and every feature of the claimed invention. Additionally, motivation and suggestion to combine the patents must be present.

It is respectfully submitted that a *prima facie* case of obviousness is lacking because the purported modification does not teach, disclose, or otherwise suggest each and every feature of independent claim 1. Specifically, claim 1 recites applying a filler composition in a foamed state discontinuously to the optical waveguide and forming a chamber element around the optical waveguide using an extruder, wherein the filler composition stabilizes within the chamber element and, in the final state, forms a plurality of dry compressible filler elements, each surrounding the at least one optical waveguide.

On the other hand, Fig. 4 of the '248 patent depicts foam bodies 6 that are introduced into the sheath 2 by means of holes 7 disposed at regular intervals in the sheath 2. See Cols. 5-6, 11. 62-11 of the '248 patent. Moreover, the skilled artisan would have understood that the sheath 2 must be extruded before foam bodies 6 can be introduced therein. An enlarged partial view of Fig. 4 of the '248 patent is reproduced below showing holes 7 in sheath 2 for introducing foam bodies 6.

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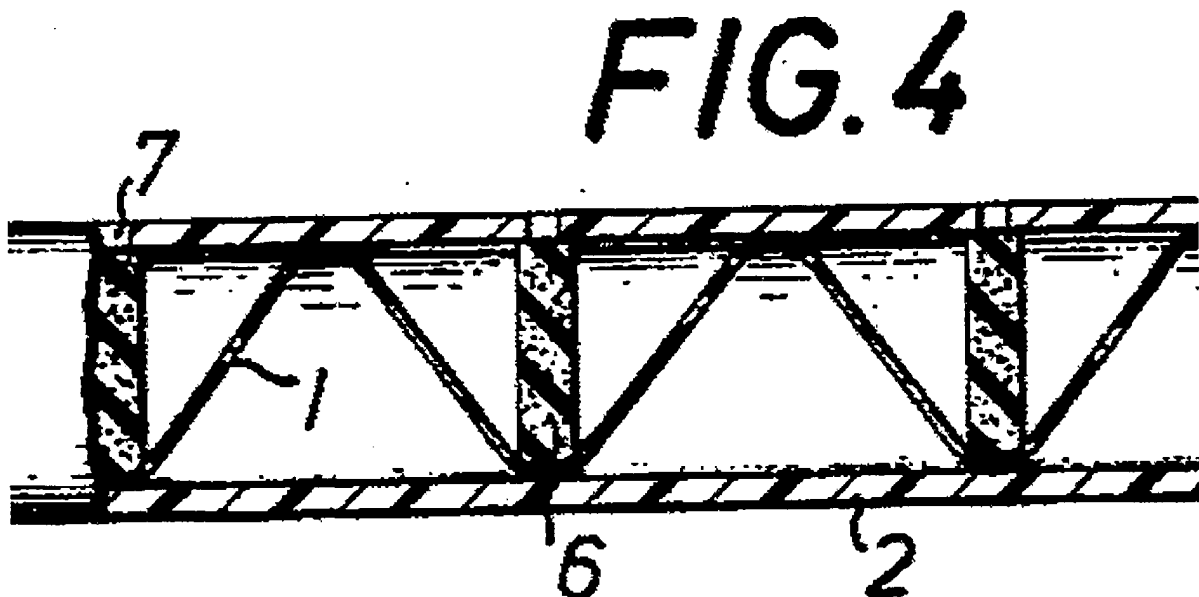


Figure 4 of the '248 patent

The '248 patent expressly states the following regarding foam bodies 6 at Cols. 5-6, ll. 62-5:

In FIG. 4 the fiber light conductor 1 is fixed in the sheath 2 by means of foam bodies 6 which are introduced into the sheath at regular intervals through holes opposite respective undulation wave peaks. The insertion is preferably effected by injection. It is also possible, however, to press resilient, prefabricated, plug-type foamed bodies through the holes.

A suitable foamed material is, for example, a polyurethane (PUR) which can be injected and then forms expanded cells which solidify so that a bend, or peak, of the undulating fiber light conductor which lies opposite the hole is fixed in its position.

Moreover, the Office Action admits that the purported modification does not disclose, teach, or otherwise suggest each and every feature of claim 1. *Thus, by its own admission the Office Action fails to make a prima facie case of obviousness.* Specifically, p. 3 of the Office Action states the following regarding the '248 patent:

The foamed filler in the primary reference is not

introduced into the extruder. However, this is submitted to have been an obvious modification to the process of Franke et al [the '248 patent]. The filler is either injected into the chamber element or inserted therein as a solid piece after the chamber element is extruded and it would have been obvious to have modified this so that the filler is attached to the waveguide/fiber prior to placing the waveguide/fiber in the extruder. The injection into the chamber of Franke et al would have been easily modified to the instant injecting using nozzles as set forth in instant claims 7 and 8. The exact disposition of the nozzles would have been an obvious consideration dependent on the amount of filler and the exact location of the filler used. Piezocontrol valves are well known and would have been obvious nozzle elements to perform the application of foamed filler.

The obviousness assertions made by the Office Action are incorrect, not supported by any facts, and contrary to the objective evidence of record. Furthermore, the Office Action ignores the fact that the '248 patent discloses that foamed bodies 6 are positioned to provide an undulating configuration for optical fiber 1 to minimize the adverse influence of mechanical stresses and external forces. See the Abstract of the '248 patent. Simply stated, the '248 patent expressly states that foamed bodies 6 are introduced into the sheath 2 using holes at regular intervals to create this undulating configuration to protect from mechanical stresses and external forces. See Col. 2, ll. 17-43 of the '248 patent. Thus, the skilled artisan would not have been motivated to install foam bodies 6 in any manner other than at regular intervals through holes to create the desired undulating configuration since it may render the invention inoperable for its intended purpose. For at least these reasons, the withdrawal of the sec. 103(a) rejection of claims 1-10 is warranted and respectfully requested.

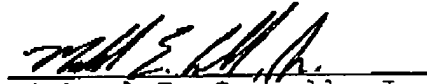
One-thousand and fifty dollars (\$1050.00) are believed due in connection with this Reply for a three-month extension of time. If any fees are due, please charge the fees, or credit any

overpayment, to Deposit Account Number 03-3325.

Allowance of all pending claims is believed to be warranted and is respectfully requested.

The Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,



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